

MEISSNER TRACTORS, INC.,	:	Order Vacating Decision
Appellant	:	and Remanding Case
	:	
v.	:	
	:	Docket No. IBIA 98-77-A
BILLINGS AREA DIRECTOR,	:	
BUREAU OF INDIAN AFFAIRS,	:	
Appellee	:	June 30, 1999

Appellant Meissner Tractors, Inc., seeks review of a February 4, 1998, decision issued by the Billings Area Director, Bureau of Indian Affairs (Area Director; BIA), concerning certain mortgages made by William D. Stuart, Rose L. Stuart, and Douglas N. Stuart. For the reasons discussed below, the Board of Indian Appeals (Board) vacates the Area Director's decision and remands this case for further consideration.

This appeal arises from a dispute addressed by the Board in Stuart v. Acting Billings Area Director, 25 IBIA 282 (1994); aff'd, No. CV-94-043-GF-PGH (D. Mont. July 24, 1995); aff'd, No. 95-35978 (9th Cir. Mar. 14, 1997). Fuller background information can be obtained from the Board's decision and/or the decisions issued by the Federal courts.

The Stuarts entered into deferred sale contracts for the purchase of individually owned trust lands on the Fort Belknap Reservation. They executed three mortgages in regard to the properties they were attempting to purchase. Each mortgage was with the Milk River Production Credit Association, Chinook, Montana, and was properly approved by BIA. In April 1992, Appellant submitted to BIA a March 5, 1992, assignment of the mortgages to it from an apparent successor-in-interest to the Association.

When the Stuarts defaulted on their payments under the deferred sale contracts, BIA cancelled the contracts. In its decision in Stuart, the Board reviewed BIA's cancellation of Rose's contract. Rose sought judicial review of the Board's decision. Douglas went directly to Federal court, apparently because BIA's cancellation of his deferred sale contract was put into immediate effect.

It appears that, after BIA cancelled the deferred sale contracts, the landowners sought other purchasers for their lands, but found that the Stuarts' mortgages were clouds on title. In August 1995, the Area Director asked the Billings Field Solicitor's Office for assistance. The

Field Solicitor responded that the clouds on title could not be eliminated until the Federal court appeals were decided.

The Department's cancellation decisions were upheld in two decisions issued in March 1997. See Stuart v. United States, 109 F.3d 1380 (9th Cir. 1997) (concerning the cancellation of Douglas' contract); and Stuart v. Bureau of Indian Affairs, No. 95-35978 (9th Cir. Mar. 14, 1997) (concerning the cancellation of Rose's contract). The Area Director again attempted to remove the clouds on title created by the mortgages. On October 21, 1997, he wrote to Farm Credit Services and Appellant. After discussing the litigation over the deferred sale contracts, the Area Director stated: "[W]e are requesting your assistance in determining if the Stuart mortgages still exist as a matter of record, or whether other action needs to commence so the BIA can properly secure the appropriate document, record and remove the mortgage encumbrances from trust titles."

Farm Credit Services responded that it had assigned all of its interest to Appellant. Appellant responded that the mortgages were still extant. It stated that it would consider accepting a lesser amount than what it believed it was owed if payment was made within 60 days.

On February 4, 1998, the Area Director issued the decision which is the subject of this appeal. He removed the mortgages as encumbrances against the trust title held by the individual landowners. Appellant appealed to the Board.

The Board has carefully reviewed the administrative record, the Area Director's decision, and the Area Director's brief on appeal. It finds that the Area Director's decision is written in conclusory terms, and therefore does not show the basis or rationale for the decision. Furthermore, the basis for the decision is not shown in either the administrative record or the Area Director's brief.

Under these circumstances, the Board concludes that the best course of action is to vacate the Area Director's decision and remand this matter for further consideration.

The parties are advised that, on remand, they may pursue settlement of this dispute.

Pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 C.F.R. § 4.1, the Billings Area Director's February 4, 1998, decision is vacated and this matter is remanded to him for further consideration.

Kathryn A. Lynn
Chief Administrative Judge

Anita Vogt
Administrative Judge